IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8577 of 2005

Between:

J. Nageswara Rao
Yekalavyanagar, Ongole, Prakasam District

..... PETITIONER

AND

The Depot Manager, APSRTC., Udyagiri Depot,
Udayagiri, Nellore District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more in the nature of Writ of Mandamus declare the order dated 20-11-2004 passed by the respondent herein as illegal, arbitrary and contrary to law and set aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU, ADVOCATE

Counsel for the Respondent: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court at the stage of admission made the following :

ORDER:

An order dated 20.11.2004 passed by the respondent has been challenged in this Writ Petition. With the consent of the parties, the Writ Petition is disposed of at this stage after hearing them.

The petitioner is a Conductor working in the respondent-Corporation. He was accused of having kept the tickets negligently which were stolen. On the basis of this accusation, the following charge was framed against him by charge sheet dated 22.03.2004:

> "Charge No.1: For having lost the Rs.100/- Ticket Block containing E.100 Tickets from 045/462200 to 299 because of your negligence and not keeping it in safe custody which constitutes misconduct as per Regulation No.28(ixa) of APSRTC Employees recruitment Reg.1963.
>
> Charge No.2: For being responsible for loss of Tickets worth of Rs.10,000/- of Rs.100/- denomination in your Tray Box No.Ex-33, which constitutes misconduct under Regulation No.28(v) of APSRTC Employees recruitment regulations 1963."

He filed an explanation. After considering the explanation he was imposed penalty of Rs.10,00/-.

The learned counsel for the petitioner submits that, even if it is conceded that the charge against the petitioner was proved, even then, a penalty of payment of

Rs.10,000/- could not be imposed upon him. He relies on clause 40.07 of the Operation Manual which lays down as under;

> "40.07. Face value of the tickets lost is not liable to be recovered from the person responsible. However, cost of the paper and printing charges are liable to be recovered apart from other action that may be taken vide para 40.06."

Clause 40.06 lays down that in case of loss of tickets disciplinary action can be taken as per the C.C.A. Regulations. He also relies on Office Audit Manual which pertains to the Audit. It lays down as under:

> "If it is proved that the Conductor has issued tickets and defrauded the Corporation the face value of the tickets should be recovered from the salary of the Conductor and debit under A.H.NO.297 (A). Loss of Tickets cleared; besides taking disciplinary action against the Conductor as per C.C.A. Regulations."

The learned counsel for the petitioner submits that, in view of these provisions in the Manual, at best the cost which was incurred by the Corporation in printing the tickets could be recovered from him. There was neither an allegation that there was any fraud committed by the petitioner nor was any finding to the fact that the petitioner or anybody else had used the tickets, which could incur loss for the Corporation.

The learned counsel for the respondent, however, states that, since the tickets were lost it is not known whether they were used at all and in case they were used, then the Corporation might have suffered the loss. This argument cannot be accepted because the numbers of the tickets which were lost must be known to the Corporation and had they been misused, it could have come to their notice. It appears that the respondents have not even the apprehension that the tickets could be or were used because, then the charge sheet would reflect it. The charge is essentially of losing the tickets. The petitioner cannot be punished for any other charge. I have also gone through the C.C.A Regulations. The penalties were prescribed under Regulation 8 of the Regulations. When it was pointed out to the learned counsel for the respondent as to under which regulation the petitioner has been punished, he

referred to clause (v) of Regulation 8(1) which lays down;

> "Penalties:
>
> 1. The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon an employee, namely;
>
> (i) to (iv)……..
>
> (v) recovery from pay of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders;"

Under this provision, if the Corporation faces a pecuniary loss by an employee's negligence, the amount lost by the Corporation can be recovered wholly or partly. In no case, an amount more than the amount which was lost by the Corporation can be recovered from the negligent official. Therefore, clause (v) of Regulation 8(1) also does not permit the Corporation to impose a penalty which is more than the amount of the loss the Corporation has suffered. Admittedly, in this case, the respondents have not suffered loss of the amount, which the tickets could fetch if they were sold to the passengers traveling in the buses. They have only suffered the loss which was incurred by the Corporation in their printing and stacking. If the Corporation suffered any loss, the respondent is directed to recover the same from the petitioner.

For the reasons given above, this Writ Petition is allowed and the impugned order is quashed. But, the respondent-Corporation is directed to recover the amount, which actually they lost because of the negligence of the petitioner. No order as to costs.

_____

(K.C.Bhanu, J)

Dt:19th April, 2005

usd

To

1. The Depot Manager, APSRTC., Udyagiri Depot,
Udayagiri, Nellore District

2. One CC to MR.GOVINDA RAJULU

3. Two CD Copies